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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/267,439 03/12/99 KAWAKAMI Y 2026-4124US4

HM12/0615

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EXAMINER

HUFF, S

ART UNIT

PAPER NUMBER

1642

DATE MAILED:

06/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/267,439

Applicant(s)

Kawakami et al

Examiner

Sheela J. Huff

Group Art Unit

1642



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 9-14 is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1642

DETAILED ACTION

1. Claims 1-14 are pending.

Information Disclosure Statement

2. The IDS filed on 3/12/99, have been of record and an initialed copy of the PTO-1449 is enclosed.

Priority

3. It is noted that the declaration refers to 08/417174, however, this application is not mentioned in the first line of the specification--the first line of the specification only refers to 09/073138. Applicant should resolve this issue by either providing a new declaration and/or amending the first line of the specification.

Claim Rejections - 35 USC § 112

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In claims 1 and 2, it is not clear what is meant by "derived". Are the 5-20 contiguous amino acids exactly those found in MART-1 or are they meant to include conservative substitutions or some other derivation of those amino acids?
 - b. In claim 2, the terminology "enhance" is a relative term. "Enhanced" as compared to what?
 - c. In claim 6 it is not clear what is encompassed by "analog".

Art Unit: 1642

Allowable Subject Matter

5. Claims 9-14 are allowable because the prior art does not teach or suggest the claimed peptides.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela J. Huff whose telephone number is (703) 305-7866. The Examiner can normally be reached on Monday and Wednesday from 6:30am to 12:30pm and Thursday from 6:30am to 3:00pm.

If attempts to teach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tony Caputa, can be reached on (703)308-3995.

The FAX phone number for the group is (703)308-4242.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [anthony.caputa@uspto.gov].

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0196.

Sheela J. Huff
June 14, 2000



Sheela J. Huff
Primary Examiner